

DRAFT amendments to § 1 and 7.8

Current regs in black, proposed regs in blue.

1. Definitions

License Holder/Licensee – Any and all persons or entities holding a license to farm shellfish under the provisions of MGL Chapter 130 and Wellfleet’s Shellfishing Policy and Regulations, including but not limited to a firm, corporation, LLC, DBA, Trust, or any entity with constituents empowered to make decisions governing their use of the Town’s fishery.

7.8 Issuance of Licenses for Aquaculture

7.8.1 Eligibility Requirements

Licenses shall only be issued to domiciled residents (See Sec.1 Definitions) of the Town, 18 years of age or older, who have the knowledge and experience to fulfill the responsibilities specified in the license, provided that the applicant has held and been documented by the Shellfish Department using a Wellfleet commercial shellfishing permit during a period of at least three (3) of the four (4) calendar years preceding the date of application for a license. Applicant shall submit copies of state-filed catch reports. OR, provided the applicant demonstrates experience in shellfish propagation and aquaculture, continuously, over at least three (3) years preceding the date of application, documented by the Shellfish Department. This shall be supported by a letter from a license holder who employed the applicant describing the type of work performed and any other information which might be relevant. The applicant shall present a detailed five-year business plan for how s/he/they intends to use the grant, including shellfish species, amounts and sizes, and gear to be used, access routes and any other information relevant to proposed operations. In addition, any applicant shall not show a pattern of violations of

Wellfleet's Shellfishing Policy and Regulations within the last three (3) years.

Any and all shareholders, officers, partners, trustees, individual members of a subsidiary of a conglomerate such as a parent/holding company, or any other constituents of an entity empowered to make decisions governing the use of the licensed area(s) shall be registered with the Shellfish Department and must meet the domicile requirements set forth by the Town.

7.8.2 Domicile Requirement and Exception

At such time as a licensee **whether they are an individual or a constituent of a licensed entity who is empowered to make decisions governing the use of their licensed area** ceases to be a domiciled resident of the Town, that individual shall be removed from the license, except in the event of loss of housing for reasons clearly beyond their control (such as a fire or a lease not being renewed) as verified by the Shellfish Constable. Status of residency, as defined in Section 2 of these Regulations, must be resumed, and verified by the Shellfish Constable within eighteen (18) months from the time of the license holder's removal to another town, or the licensee will be removed from the license.

Within 30 days of the nine-month anniversary of losing his/her domicile status, the lease holder shall demonstrate sufficient evidence of effort to secure housing in Wellfleet to the satisfaction of the Shellfish Constable. If the lease holder fails to qualify for such an exception, they may appeal the Shellfish Constable's decision to the Selectboard within 30 days.

No aquaculture license or commercial permit from another municipality for the harvest of shellfish may be held by the individual **or constituent of a license-holding entity** for the duration of the allowed term. **Such persons** making use of an exemption shall not be eligible to be granted a new license or an extension of a currently licensed area for the duration of the allowed term but may be granted a renewal of their existing license, as per Section 7.8.2.

The status of all other licensees, **including constituents of an entity who are empowered to make decisions governing the use of their licensed area**, named to the licensed area will not change. If a licensee ceases to be a domiciled resident and is the sole individual named to that grant, ~~licensee~~, then the license shall be revoked.

7.9 Rights of Use and Transfer

Licensees shall have the exclusive use of the area described in their license for the purpose of aquaculture, for the duration of their terms. No other individual **or entity** may use the licensed **area** without the express permission of the licensee(s). (See Section 4.9 Poaching, Section 4.10 Disturbance of Grant by Other Than the Licensee and MGL Chapter 130, Section 57, Section 63 and Section 67.)

Licensees may transfer the rights or responsibilities assigned to their license to any other individuals, ~~companies or corporations~~ **or other entities including but not limited to Corporations, LLCs, DBAs or Trusts** by vote of the Selectboard, and with the express permission of all other individuals who hold license for the same area.

Any entity including but not limited to corporations, LLCs, LLPs, DBAs, Trusts, or parent/holding companies, must have their headquarters in Wellfleet and all constituents of such entities

empowered to make decisions governing the use of the licensed area must satisfy the domicile requirements of the Town. (See MGL Chapter 130; Section 58 and Shellfishing Regulation Section 7.8.4 Limit on Individuals Licensed to Use a Grant.)

At such time as a licensee ceases to be a domiciled resident of the Town that individual shall be removed from the license. The status of all other licensees will not change. If that licensee is the sole licensee then the license shall be revoked.

7.8.6. Limit on Size of Grant

No licensee shall hold a license for, or have use of, more than seven (7) acres in total. Each individual **constituent of an entity empowered to make decisions governing the use of the licensed area (including any parent/holding company of which it is a subsidiary)** named on a **Town** license ~~as a licensee~~ shall be charged with the total acreage covered by that license. (See Section 7.3 Annual License Fee.) Individual **persons, or entities, or constituents of a licensed entity, as above,** holding more than seven (7) acres prior to the adoption of the establishment of this limit will not be required to accept a license for a lesser acreage, but will not be eligible for a license for any additional acreage